IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 769 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAJJANSINGH NAHARSINHJI CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 769 of 2002

MR S V Raju for Mr RJ GOSWAMI for Petitioner No. 1

Mr V M Pancholi, APP for Respondent No. 1

MS PJ DAVAWALA for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 22/03/2002

ORAL JUDGEMENT

Rule. Mr V M Pancholi, learned APP waives service of rule for respondent no.1. Mrs P J Davawala,

learned Standing Counsel waives service of rule for respondent no.2. By consent of the learned advocates for the parties, this application is being heard and disposed of finally.

2. This is an application for quashing the complaint being criminal case No.857/91 pending before the learned Addl.Chief Metropolitan Magistrate, Ahmedabad City for offences punishable under section 210 of the Companies Act, (for short, 'the Act').

3. It is alleged in the complaint that the Company in question was required to hold Annual General Meeting in respect of the said Company for the calendar year 1976 on or before 31.12.1976 but it was not convened accordingly and, therefore, being a Director of the said Company, the petitioner has committed offence punishable under section 210 of the said Act. During the course of hearing, it has transpired that the present applicant was inducted as Director in the said Company only on 22.1.1977 even as per the records maintained by the Registrar of Companies. This means that the present applicant was not Director of the said Company on 31.12.1976. Therefore, he was not responsible or liable to convene the said meeting. In other words, when the Annual General Meeting was not held before 31.12.1976, the applicant herein was not responsible for the said omission and, therefore, he cannot be held responsible and liable for the said omission. In that view of the matter, it cannot be said that the applicant has failed to convene the meeting as aforesaid and has committed offence under section 210(5) of the said Act. No other offence has been alleged against him.

4. In that view of the matter, no offence can be said to have been committed by the applicant and consequently, the complaint is required to be quashed qua the applicant only. Mrs. Davawala, learned Standing Counsel for respondent no.2 was heard and she states that there appears to be some misunderstanding on the part of the original complainant in filing the complaint. In above view of the matter, this application is allowed. The complaint filed is ordered to be set aside, qua the present applicant only. The complaint will proceed against other persons in accordance with law. Rule is made absolute to the above extent.

22/3/2002 [D P Buch, J.]
msp